

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Nicholas Terhune,
Plaintiff,
vs.

Case No. _____

Home Depot U.S.A., Inc., and Owens
Corning Insulating Systems, LLC,

**NOTICE OF REMOVAL
(Jury Trial Demanded)**

Defendants.

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants Home Depot U.S.A., Inc. (“Home Depot”) and Owens Corning Insulating Systems, LLC hereby give notice of removal of this action from the Seventh Judicial District Court for Stearns County, State of Minnesota, to this Court. As grounds for removal, Home Depot and Owens Corning hereby state and allege as follows:

1. Home Depot and Owens Corning Insulating Systems, LLC are named defendants in a civil action styled as *Nicholas Terhune vs. Home Depot U.S.A., Inc. and Owens Corning Insulating Systems, LLC*, Seventh Judicial District, County of Stearns, State of Minnesota.
2. Plaintiff initially served a Summons and Complaint naming Home Depot and Owens Corning Composite Materials, LLC on November 19, 2021. Plaintiff thereafter granted a ten-day extension of time for Home Depot and Owens Corning Composite Materials, LLC to respond to the Summons and Complaint.
3. Plaintiff amended his Complaint on December 17, 2021 to name Owens Corning Insulating Systems, LLC as a defendant instead of Owens Corning

Composite Materials, LLC. A true and correct copy of the Summons and Amended Complaint are attached as **Exhibit A**.

4. Home Depot and Owens Corning Insulating Systems, LLC were provided with a copy of Plaintiff's Summons and Amended Complaint on December 17, 2021 and a Waiver of Service of Summons.

5. It is Home Depot's and Owens Corning Insulating Systems, LLC's understanding that, as of the date of this filing, Plaintiff has not filed his Summons and Amended Complaint with the state court. The signed Waiver of Service of Summons is attached as **Exhibit B**.

6. Notice of Removal is timely under 28 U.S.C. § 1446(b), which allows a defendant to remove a case to federal district court within thirty (30) days after receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.

7. Plaintiff is an individual resident and citizen of Minnesota. Home Depot is a Delaware corporation with its principal place of business in the state of Georgia. Owens Corning Insulating Systems, LLC is a Delaware limited liability company with its principal place of business in the state of Ohio. The sole member of Owens Corning Insulating Systems, LLC is Owens Corning which is a Delaware corporation with a principal place of business in the state of Ohio.

8. 28 U.S.C. § 1332 vests this Court with original jurisdiction over this civil action because there is complete diversity between the parties.

9. Pursuant to 28 U.S.C. § 1441(a), venue for this action is proper in this Court, as the events giving rise to the allegations contained in the Complaint occurred within this district court of the United States.

10. Plaintiff's Complaint alleges, among other things, that he was injured and that "Plaintiff has, and continues to suffer, serious physical and emotional injuries including, but not limited to, nerve damage, hand numbness, tingling, ongoing physical pain, loss of feeling in his fingers, and embarrassment from the location of the scar, entitling him to an award of damages in excess of \$50,000."

11. Plaintiff, through his attorney, has refused to stipulate that the total amount of all damages that Plaintiff seeks to recover do not and will not exceed \$75,000. Further, Plaintiff submitted a settlement demand for an amount higher than the \$75,000 amount in controversy requirement for jurisdiction in this Court. Therefore, the amount in controversy exceeds \$75,000.

12. Written Notice of the Filing of this Notice of Removal, together with a copy of the Notice of Removal and supporting papers, is being served on Plaintiff's counsel, contemporaneous with this filing and will be filed with the Clerk of the Seventh Judicial District, County of Stearns, State of Minnesota, as required under 28 U.S.C. § 1446(d).

13. All procedural requirements for removal under 28 U.S.C. §§ 1441 and 1446 have been satisfied and thus, pursuant to 28 U.S.C. § 1332, this case is hereby removed to this Court.

WHEREFORE, Defendants Home Depot U.S.A., Inc. and Owens Corning Insulating Systems, LLC pray that this action be removed to this Court, that this Court accept jurisdiction of this action and henceforth that this action be placed on the docket of this Court for further proceedings as though this action had originally been instituted in this Court.

HAWS-KM, P.A.

Dated: December 20, 2021

/s/Michelle Christensen
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